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FEDERAL COMMUNICATIONS COMMISSION
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket 93-215
	)	
Rate Regulation	)	

**COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION**

The National Telephone Cooperative Association ("NTCA") submits these Comments in response to the Notice of Proposed Rulemaking, FCC 93-353, released on July 16, 1993, in the proceeding captioned above ("NPRM"). This proceeding is examining proposals for cost-of-service showings to be submitted by cable operators supporting rates higher than benchmarks.

NTCA is a national association of approximately 500 small local exchange carriers ("LECs") providing telecommunications services to interexchange carriers and subscribers throughout rural America. Approximately 160 of NTCA's members operate small cable television systems in their telephone service area. Most of them provide service under the rural exemption in 47 C.F.R. § 63.58. Nearly all operate with small staffs. Most systems were established by the telephone companies because service was not provided by or could not be obtained from other sources. Because service is provided in sparsely populated areas, the systems are generally not subject to "effective competition." Costs, however, are also generally higher in these

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areas because they do not possess many economies of scale present in more densely populated areas.

I. SMALL SYSTEMS SHOULD BE ALLOWED TO NEGOTIATE BASIC SERVICE TIER RATES WITHOUT THE REQUIREMENT FOR COST-OF-SERVICE SHOWINGS.

Cost-of-service showings have been part of the telephone industry for several decades. The procedures and processes for the telephone industry have been refined over time and have withstood legal scrutiny. The rules proposed by the Commission closely follow the rules applied to the telephone industry and the general approach proposed by the Commission appears to comport with constitutional requirements. However, NTCA urges the Commission to allow small systems the option of simply negotiating basic service tier rates with franchise authorities instead of having to resort to burdensome rate proceedings that involve expensive cost-of-service showings. In prior comments, NTCA proposed that the Commission exempt small systems with fewer than 1,000 subscribers and allow these systems either to simply file their basic tier rates (in cases where there is no objection to a simple filing by the franchise authority) or to negotiate rates with the franchising authorities for the basic service tier.

The Commission also understands the Cable Act of 1992 mandate to reduce the administrative burdens on small systems.[1]

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[1] NPRM at 76.

The Commission proposes several general streamlining alternatives[2] and discusses small system alternatives.[3] While streamlined cost-of-service alternatives are good and important for the industry as a whole, they are especially needed by the small systems.

The Commission requests comments on whether it should exempt small systems from some or all requirements of rate regulation to reduce small company burdens.[4] Petitions for Reconsideration filed by Alaska Cablevision, Inc. and the Arizona Cable Television Association supported a rate regulation exemption for small systems.[5] The Commission should continue to explore that option.

In any event, if the Commission does not exempt small systems altogether from rate regulation it should strive to design cost-of-service showing rules which are the least burdensome for small cable systems. In addition, it should allow liberal waivers to small systems from provisions that impose undue expense or other burdens.

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[2] NPRM at 70-75.

[3] NPRM at 76-78.

[4] NPRM at 77.

[5] NPRM n.82.

II. REDUCED BURDENS FOR SMALL SYSTEMS SHOULD BE ALLOWED BASED ON THE NUMBER OF SUBSCRIBERS SERVED IN A FRANCHISE AREA OR BY SEPARATE CORPORATIONS, NOT ONLY BY THE NUMBER OF SUBSCRIBERS SERVED BY A HEADEND.

The Commission's adopted use of determining small "system size by a system's principal headend, including any other headends or microwave receive sites that are technically integrated to the system's principal headend"[6] serves to punish technically and economically efficient companies. NTCA believes the existing definition burdens many small cable television companies with rate regulation requirements without taking into account small systems that may be "technically integrated" to a principal headend that is owned by another cable system. Likewise, in a case where one system serves several franchise areas but is not regulated by all franchise authorities, then it is very burdensome for both the system and any regulating authority to apply rate regulation guidelines as written if the systems in separate franchise jurisdictions are treated as one. A franchise area based "small system" definition will reduce administrative burdens not only on small cable television companies but also on the franchise authorities as well.

Further, any burden reduction allowed by the Commission for a small system based on the number of subscribers served by the headend does not take into account small systems that employ state-of-the-art technologies like fiber optics to tie several

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6 FCC 93-177 at 465.

headends or microwave receive sites together or even to tie several separate companies together. These arrangements hold the line on costs and contribute to efficient operations. Some small cable television companies may not even own a headend but instead may receive a signal over fiber from a separate cable television entity. The rules should not punish companies for utilizing technologies to achieve efficiency and an economy of scale. Under the proposal, a cable television company would apparently be rewarded with reduced regulatory burdens by separating its headends, but would have to incur greater expense to enjoy this reward and qualify as a small system for rate regulation purposes.

The definition of "small system" should be enhanced to allow an option for a definition classifying a "small system" as one based on 1,000 or less subscribers in a franchise area as well as one which involves a separate corporation serving 1,000 or less subscribers but not owning a headend. This definition will better capture "real" small systems and will promote efficient plant design. These approaches will better reduce the administrative burdens on small size systems.

CONCLUSION

NTCA urges the Commission to adopt rules consistent with these comments.

Respectfully submitted,

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August 25, 1993

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in MM Docket No. 93-215 was served on this 25th day of August 1993, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

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